

CEMETERY BOARD MEETING

MINUTES

October 21, 2009

The Cemetery Board met on October 21, 2009, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Randy Gleason, Chair
David Gilliam, Vice-Chair
Mike Kirsch
K. Carter Bell
Isabel Berney

Board members not present: Delores King

DPOR staff present for all or part of the meeting included:

Jay DeBoer, Director
Mark Courtney, Deputy Director
Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint
Analysis & Resolution
Herb Nichols, Investigator
Ilona LaPaglia, Legal Analyst
Emily Trent, Administrative Assistant

Steven Jack, from the Office of the Attorney General was present.

Christine Martine called the meeting to order at 9:03 AM

Call to Order

Ms. Martine opened the floor for nominations for the position of Chair and Vice-Chair of the Cemetery Board. David Gilliam nominated Randy Gleason for the position of Chair. With no other nominations, the nominations were closed. A motion was made by Mr. Gilliam and seconded by Mr. Kirsch to elect Randy Gleason as Chair. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gilliam, Gleason and Kirsch.

Election of Officers

Mike Kirsch nominated David Gilliam as Vice-Chair. With no other nominations, the nominations were closed. A motion was made by Ms. Bell and seconded by Mr. Kirsch to elect David Gilliam as Vice-Chair.

The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gilliam, Gleason and Kirsch.

A motion was made by Mr. Kirsch and seconded by Ms. Berney to approve the agenda. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gilliam, Gleason and Kirsch. **Agenda**

A motion was made by Ms. Berney and seconded by Mr. Kirsch to approve the following minutes: June 3, 2009, Board Meeting; July 27, 2009, Informal Fact-Finding Conference; September 8, 2009, Informal Fact-Finding (Disciplinary) Conference; September 8, 2009, Informal Fact-Finding (Licensing) Conference; and September 10, 2009, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gilliam, Gleason and Kirsch. **Minutes**

Michael Doherty, Virginia Cemetery Association member, asked the Board to analyze their views on realized capital gains and the Board’s interpretation of how it treats capital gains. No action was taken by the Board. **Public Comment**

In the matter of **File Number 2010-00482, Amy Roudabush**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Roudabush’s application for a cemetery sales personnel registration. The motion passed unanimously. Members voting “Yes” were Bell, Berney, and Gilliam. **File Number 2010-00482, Amy Roudabush**

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-00483, Amy Roudabush**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Roudabush’s application for a cemetery sales personnel registration. The motion passed unanimously. Members voting “Yes” were Bell, Berney, and Gilliam. **File Number 2010-00483, Amy Roudabush**

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-00484, Amy Roudabush**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Roudabush's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Bell, Berney, and Gilliam.

File Number 2010-00484,
Amy Roudabush

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-00485, Amy Roudabush**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Roudabush's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Bell, Berney, and Gilliam.

File Number 2010-00485,
Amy Roudabush

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-00857, Bethel Cemetery Company, Inc.**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Ms. Bell and seconded by Ms. Berney to accept the recommendation as written and approve James Click as the trustee of the perpetual care trust fund for Bethel Cemetery Company, Inc. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason and Gilliam.

File Number 2010-00857,
Bethel Cemetery
Company, Inc.

As the presiding Board member, Mr. Kirsch did not participate in the discussion or vote related to this matter.

In the matter of **File Number 2009-04321, Riverview Cemetery Co. Corp., t/a Riverview Cemetery Co.**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the recommendation as written and approve Eva Pifer as the trustee of the perpetual care trust fund for Riverview Cemetery Co. Corp., t/a Riverview Cemetery Co. contingent upon providing evidence of a fidelity bond in force in the amount of the trust. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, Gilliam and Kirsch.

**File Number 2009-04321,
Riverview Cemetery Co.
Corp., t/a Riverview
Cemetery Co.**

In the matter of **File Number 2009-04220, Heritage Family Cemetery, Inc.**, the Board reviewed the record which consisted of the investigative file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Officer. H. Lane Kneedler, attorney for the respondent, was present and addressed the Board.

**File Number 2009-04220,
Heritage Family
Cemetery, Inc.**

At 9:25 A.M., Mr. Gleason offered a motion which was seconded by Mr. Kirsch, that the Board meeting be recessed and that the Cemetery Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Steven Jack, Christine Martine and Jay DeBoer.

Closed Session

This motion is made with respect to the matter(s) identified as agenda item(s):

11. File Number 2009-04220, Heritage Family Cemetery, Inc.

At 9:39 A.M., a motion was made by Mr. Kirsch and seconded by Mr. Gilliam that the Board reconvene in open session.

WHEREAS, the Cemetery Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

Certification

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by this Cemetery Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Cemetery Board hereby certifies that, to the best of each member's knowledge, (i) only public

business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Cemetery Board.

VOTE: 5-0

AYES: Bell, Berney, Gilliam, Kirsch and Gleason.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: King.

In the matter of **File Number 2009-04220, Heritage Family Cemetery, Inc.**, a motion was made by Mr. Gilliam and seconded by Ms. Berney to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead closed the case with a finding of no violation. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, Gilliam and Kirsch. **File Number 2009-04220, Heritage Family Cemetery, Inc.**

Mr. Gleason turned the position of Chair over to Mr. Gilliam and recused himself from the meeting. **Transfer of Chair**

In the matter of **File Number 2009-03771, Birchlawn Burial Park Subsidiary, Inc.**, the Board reviewed the Consent Order as seen and agreed to by Birchlawn Burial Park Subsidiary, Inc. A motion was made by Ms. Berney and seconded by Ms. Bell to reject the proposed Consent Order offer, and extend a counter-offer to Birchlawn Burial Park Subsidiary, Inc. wherein Birchlawn Burial Park Subsidiary, Inc. admits to 2 violations of §54.1-2327 (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$50.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$250.00. In addition, for violations of Count 1, Birchlawn Burial Park Subsidiary, Inc. agrees to provide the Board with a copy of their written general price list, showing all of the charges for additional services provided by Birchlawn Park Subsidiary, Inc. within thirty (30) days of the effective date of the Order. If Birchlawn Park Subsidiary, Inc. does not accept the counter-offer within 10 days, the case will proceed to an Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Bell, Berney and Gilliam. **File Number 2009-03771, Birchlawn Burial Park Subsidiary, Inc.**

As the Board member who reviewed the file, Mr. Gleason did not

participate in the discussion or vote in this matter.

Due to a possible conflict of interest, Mr. Kirsch did not participate in the discussion or vote in this matter.

Mr. Gleason returned and resumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2009-03679, Greenlawn Memory Gardens Incorporated, t/a Roselawn Memory Gardens**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Ms. Berney to accept the Consent Order wherein Greenlawn Memory Gardens Incorporated, t/a Roselawn Memory Gardens admits to 2 violations of §54.1-2319 (Count 1) of the *Code of Virginia*, admits to 2 violations of §54.1-2325.A (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Count 1, and agrees to no monetary penalty for the violations contained in Count 2, and agrees to 150.00 in Board costs for a total of \$150.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gleason, Gilliam and Kirsch.

**File Number 2009-03679,
Greenlawn Memory
Gardens Incorporated,
t/a Roselawn Memory
Gardens**

In the matter of **File Number 2009-00933, Historyland Memorial Park, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gilliam to accept the Consent Order wherein Historyland Memorial Park, Inc. admits to violation of 18 VAC 47-20-190.13 of the Board’s 2000 Regulations (Count 1), and agrees to no monetary penalty for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$150.00. In addition, for violation of Count 1, Historyland Memorial Park, Inc. agrees to have the double bronze memorial, purchased in October 1996 by Ruby M. Carney, refinished and delivered to Stafford Memorial Park within sixty (60) days of the effective date of the Order. If Historyland Memorial Park fails to comply with the terms of the Order, its license shall be automatically revoked. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gleason, Gilliam and Kirsch.

**File Number 2009-00933,
Historyland Memorial
Park, Inc.**

Mr. Gleason turned the position of Chair over to Mr. Gilliam and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2009-03280, Covenant Acquisition, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the Consent Order wherein Covenant Acquisition, LLC admits to 4 violations of §54.1-2319 (Count 1) of the *Code of Virginia*, and admits to 2 violations of §54.1-2325 (Count 2) of the *Code of Virginia*, and agrees to

**File Number 2009-03280,
Covenant Acquisition,
LLC**

a monetary penalty of \$200.00 for each violation contained in Count 1, and agrees to a monetary penalty of \$200.00 for each violation contained in Count 2, and agrees to 150.00 in Board costs for a total of \$1,350.00. In addition, for violation of Count 1, Covenant Acquisition, LLC agrees to deposit \$347.15 into the perpetual care trust fund and provide proof of this deposit to the Board within 30 days of the entry of the Order. The motion passed unanimously. Members voting "Yes" were Bell, Berney, and Gilliam.

Due to a possible conflict of interest, Mr. Gleason and Mr. Kirsch did not participate in the discussion or vote in this matter.

In the matter of **File Number 2009-03338, Laurel Hill Memorial Park, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Bell and seconded by Ms. Berney to accept the Consent Order wherein Laurel Hill Memorial Park, LLC admits to *3 violations* of §54.1-2319 (Count 1) of the *Code of Virginia*, and admits to *2 violations* of §54.1-2325 (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$200.00 for each violation contained in Count 1, and agrees to no monetary penalty for each violation contained in Count 2, and agrees to 150.00 in Board costs for a total of \$750.00. In addition, for violation of Count 1, Laurel Hill Memorial Park, LLC agrees to deposit \$3,504.00 into the perpetual care trust fund and provide proof of this deposit to the Board within 30 days of the entry of the Order. The motion passed unanimously. Members voting "Yes" were Bell, Berney, and Gilliam.

File Number 2009-03338,
Laurel Hill Memorial
Park, LLC

Due to a possible conflict of interest, Mr. Gleason and Mr. Kirsch did not participate in the discussion or vote in this matter.

In the matter of **File Number 2009-03697, Covenant Acquisition Subsidiary, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the Consent Order wherein Covenant Acquisition Subsidiary, Inc. admits to *2 violations* of §54.1-2325 (Count 1) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$150.00. The motion passed unanimously. Members voting "Yes" were Bell, Berney, and Gilliam.

File Number 2009-03697,
Covenant Acquisition
Subsidiary, Inc.

Due to a possible conflict of interest, Mr. Gleason and Mr. Kirsch did not participate in the discussion or vote in this matter.

In the matter of **File Number 2009-04057, Laurel Hill Memorial Park**

File Number 2009-04057,

Subsidiary, Inc., the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. Bell to accept the Consent Order wherein Laurel Hill Memorial Park Subsidiary, Inc. admits to 2 violations of §54.1-2325 (Count 1) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$150.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, and Gilliam.

**Laurel Hill Memorial
Park Subsidiary, Inc.**

Due to a possible conflict of interest, Mr. Gleason and Mr. Kirsch did not participate in the discussion or vote in this matter.

Mr. Gleason returned and resumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2009-02584, Williamsburg Memorial Park, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Gilliam and seconded by Mr. Kirsch to accept the Consent Order wherein Williamsburg Memorial Park, Inc. admits to 2 violations of §54.1-2319 (Count 1) of the *Code of Virginia*, and admits to 4 violations of §54.1-2325. A (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$300.00 for each violation contained in Count 1, and agrees a monetary penalty of \$200.00 for each violation contained in Count 2, and agrees to 150.00 in Board costs for a total of \$1,550.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gleason, Gilliam and Kirsch.

**File Number 2009-02584,
Williamsburg Memorial
Park, Inc.**

In the matter of **File Number 2009-04240, Williamsburg Memorial Park, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gilliam to accept the Consent Order wherein Williamsburg Memorial Park, Inc. admits to 2 violations of §54.1-2319 (Count 1) of the *Code of Virginia*, and admits to a violation of §54.1-2325. A (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$400.00 for each violation contained in Count 1, and agrees a monetary penalty of \$300.00 for the violation contained in Count 2, and agrees to \$150.00 in Board costs for a total of \$1,250.00. In addition, for the violation of Count 1, Williamsburg Memorial Park, Inc. agrees to deposit \$566.31 into the perpetual care trust fund and provide proof of this deposit to the Board within 30 days of entry of the Order. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gleason, Gilliam and Kirsch.

**File Number 2009-04240,
Williamsburg Memorial
Park, Inc.**

A motion was made by Ms. Berney and seconded by Ms. Bell to amend the Cemetery Board's Financial Report forms Schedule C & Schedule D to remove the sentence allowing excerpts to be submitted. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, Gilliam and Kirsch.

Administrative

A motion was made by Ms. Berney and seconded by Mr. Gilliam to change the Cemetery Board's Financial Report forms Schedule A to realized show capital gains and losses as principal not income. The motion passed by majority vote. Members voting "Yes" were Berney, Gleason, Gilliam and Kirsch. Member voting "No" was Bell.

Old Business

The Board recessed from 10:50 a.m. – 11:00 a.m.

Break

The Board completed Conflict of Interest training.

Administrative

The meeting adjourned at 11:59 A.M.

Adjourn

Randy Gleason, Chair

Jay DeBoer, Secretary